

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 528 – HB 542

April 21, 2015

**SUMMARY OF ORIGINAL BILL:** Authorizes any Tennessee resident who has been residing outside of the United States due to employment to ship any wine purchased while residing outside the U.S. to this state.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$63,200/FY15-16/ABC Fund  
\$1,900/FY15-16/General Fund  
\$25,000/FY16-17 and Subsequent Years/ABC Fund  
\$700/FY16-17 and Subsequent Years/General Fund

Increase Local Revenue – \$400/FY15-16  
\$200/FY16-17 and Subsequent Years

**SUMMARY OF AMENDMENTS (005047, 006028, 006850):** Amendment 005047 deletes all language after the enacting clause except for the effective date provision. Authorizes The Winery at Belle Meade Plantation to serve samples of certain alcoholic beverages, with or without charge, sell bottles of certain alcoholic beverages, and sell merchandise promoting the brands of the specified manufacturer at the retail store operated by the winery. Amendment 006028 authorizes any entity that is authorized by the Department of Environment and Conservation to operate a restaurant or other food and beverage service on the premises of a state park to sell alcoholic beverages for on-premises consumption, as a premier type tourist resort. Amendment 006850 prohibits an intoxicating liquor from being advertised, described, labeled, named, sold, or referred to for marketing or sales purposes as “Tennessee Moonshine”, unless the intoxicating liquor is distilled in Tennessee. Subjects any manufacturer who violates this section to suspension or revocation of its license for a period of not less than one year.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue – Exceeds \$300/One-Time/ABC Fund  
Exceeds \$2,000/Recurring/ABC Fund  
Exceeds \$7,800/Recurring/General Fund

Increase Local Revenue – Exceeds \$5,800/Recurring/Permissive

Assumptions for the bill as amended:

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- The Department of Revenue reports that current liquor-by-the-drink tax collections from the sale of wine as samples for tasting, with or without charge, for consumption on the premises at a winery, or at retail in sealed containers for consumption on such premises are equal to zero.
- Therefore, it is estimated that the proposed legislation as amended will not result in a significant increase in state or local revenue from wineries. Any increase in sales tax revenue for state and local sales taxes imposed on the manufacturer's merchandise promoting the brands of the manufacturer are estimated to be not significant.
- There are 56 state parks in Tennessee. The Department of Environment and Conservation reports that this bill as amended could apply to facilities at six state parks; five of which currently hold a liquor-by-the-drink (LBD) license, and one of which does not.
- It is estimated that at least one facility in Edgar Evins State Park in DeKalb County will obtain a license to sell alcoholic beverages for on-premises consumption, as a premier type tourist resort, as a result of this bill as amended.
- There is an initial application fee of \$300 and a recurring license fee of \$2,000, payable to the ABC Fund.
- Any increase in local privilege taxes is estimated to be not significant.
- State and local sales taxes and a 15.0 percent LBD tax will be assessed on alcoholic beverage sales.
- The current state sales tax rate is 7.0 percent; the local option sales tax rate in DeKalb County is 2.75 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617%.
- Pursuant to Tenn. Code Ann. § 57-4-306(a), 50.0 percent of the 15.0 percent LBD tax is allocated to the state General Fund and 50.0 percent is distributed to the local government.
- Based on the interquartile average of 2013 LBD tax returns generated by the Department of Revenue and assuming reasonable growth rates in LBD tax collections, the average taxable base per establishment is estimated to be approximately \$110,000 per year.
- Given current limitations on the availability of LBD sales data by venue type and size, Fiscal Review Committee staff has established three simple, broad venue-type categories and set a ratio for each that is relative to the overall average LBD taxable base: Smaller than Average (50%); Average (100%); Larger than Average (150%). Given the nature of this particular establishment, the recurring increase in sales is estimated to be 50 percent of the average taxable base, or \$55,000, per year.
- The recurring increase in state revenue to the General Fund is estimated to exceed \$7,836  $[(\$55,000 \times 7.0\%) - (\$55,000 \times 7.0\% \times 3.617\%) + (\$55,000 \times 15.0\% \times 50.0\%)]$ .
- The recurring increase in local revenue is estimated to exceed \$5,777  $[(\$55,000 \times 2.75\%) + (\$55,000 \times 7.0\% \times 3.617\%) + (\$55,000 \times 15.0\% \times 50.0\%)]$ .
- Any revenue collected from any state or local taxes imposed on manufacturers or wholesalers is estimated to be not significant.
- No additional personnel or resources will be required by the ABC.
- Prohibiting an intoxicating liquor from being advertised, described, labeled, named, sold, or referred to for marketing or sales purposes as "Tennessee Moonshine", unless

the intoxicating liquor is distilled in Tennessee will not significantly impact alcohol consumption statewide and subsequent state and local tax collections.

- There will not be a significant number of manufacturing license suspensions or revocations to significantly impact state or local revenue.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "Jeffrey L. Spalding". The signature is written in a cursive, flowing style.

Jeffrey L. Spalding, Executive Director

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